(69)

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P.No.32/2007

Petitioner — Dr. (Mrs.) Minakshi Bajpai, w/o Rajendra Bajpai, aged 35 years, R/o Panchshil Nagar, Baloda Bazar, District-Raipur, at present R/o Ravi Nagar, Raipur (C.G.)

Versus

Non applicants

1. State of Chhattisgarh, Through-Officer Incharge Ladies Police Station, Raipur, District-Raipur (C.G.)
2. Rajendra Bajpai, S/o Late Ram Narayan Bajpai, aged about 41 years, Occupation-Service, Permanent R/o Panchshil Nagar, Baloda Bazar, at present R/o Ravi Nagar, Raipur(CG)
3. Dharmendra Bajpai, S/o Late R.N. Bajpai, aged about 32 years, R/o Panchshil Nagar, Baloda Bazar, Raipur, District-Raipur(CG)

(APPLICATION UNDER SECTION 482 OF Cr.P.C.)

Appearance:

Petitioner-Dr. (Mrs.) Minakshi Bajpai is present in person along with Shri Sudhir Verma, Advocate.

Shri G.K.Beriwal, Dy. Advocate General present for the State/respondent No.1.

Shri Rajendra Bajpai(respondent No.2) is also present in person.

None for respondent No.3.

ORAL ORDER
(25.04.2007)

SUNIL KUMAR SINHA, J.

Heard.

This is a petition filed for quashment of the proceedings of criminal case No. 2702/2006 (State Vs. Rajendra Bajpai and another) pending in the Court of J.M.F.C., Raipur, District-Raipur(CG).

The brief facts are that the petitioner was married to respondent No.2, 9 years back. They are having a male child namely-Master Anmol, who is aged about 8 years. Respondent No.3 is the brother-in-law (*Devar*) of the petitioner. On a report being lodged by the petitioner in Mahila Thana, Raipur, crime No.6/2005 was registered under Section 498-A read with Section 34 and Section 506 IPC against respondents No.2 and 3. Consequently, a charge sheet was filed under Sections 498-A read with Section 34 and Section 506 IPC and Sections 3 & 4 of the Dowry Prohibition Act. On 15.2.2006, the learned Magistrate framed charges under Section 498-A IPC only.

It is stated that during the pendency of the aforesaid criminal case, the parties have entered into a compromise and an application for compounding the offence under Section 320 Cr.P.C. was filed before the Magistrate. The learned Magistrate passed an order dated 12.9.2006, whereby, the said petition was dismissed on the ground that the offence under Section 498-A IPC was not compoundable; therefore, the petition cannot be entertained. It is after the said rejection, on 12.9.2006, the petitioner/complainant (wife) has moved to the High Court under Section 482 Cr.P.C. for quashment of the criminal proceedings.

Learned counsel for the petitioner argues that now the husband and wife both are living peacefully, therefore, the proceedings of criminal case be quashed in the interest of justice.

I have enquired from the petitioner as to whether she has entered into a compromise with the husband and brother-in-law *(Devar)*, on which, she replies that they have compromised the matter and are leading their happy life and she does not want to prosecute the criminal case any more.

The jurisdiction of the High Court under Section 482 Cr.P.C. regarding quashment of a proceeding u/s 498-A I.P.C. in view of Section 320 Cr.P.C. is no longer *res integra.* It has been observed by the Apex Court in the matter of ***B.S.Joshi and others Vs. State of Haryana & another, 2003 (2) C.G.L.J. 35*** that 'there is no doubt that the object of introducing Chapter XX-A containing section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter-productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter- XX-A of the Indian Penal Code'. Observing this, the Apex Court laid down that such proceedings can be quashed by the High Court under Section 482 Cr.P.C. in its inherent jurisdiction.

After hearing the parties and after being satisfied that after the compromise, both the parties (husband and wife) are leading their happy life, I am of the opinion that it would be just

and proper for this Court to accept the compromise and to quash the proceedings under the inherent jurisdiction.

Accordingly, the prayer is allowed. The proceedings of criminal case No. 2702/2006 (State Vs. Rajendra Bajpai and another) pending in the Court of J.M.F.C. Raipur, District-Raipur(CG) are hereby quashed.

The petition stands finally disposed of.

No costs.

Sd/-
Sunil Kumar Sinha
Judge

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